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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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(66180.3000)

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EXAMINER

ESCALANTE, OVIDIO

ART UNIT

PAPER NUMBER

2645

DATE MAILED: 12/18/2003

4

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/829,887

Applicant(s)

MEAD ET AL.

Examiner

Ovidio Escalante

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2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-66 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-66 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Information Disclosure Statement*

1. The information disclosure statement submitted on October 1, 2001, April 19, 2002 was received. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly the information disclosure statement is being considered by the examiner.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1-11,13-16,18-27,29-40 and 43-66 are rejected under 35 U.S.C. 102(a) as being anticipated by Bastian WO 00/14987.

**Regarding claim 1**, Bastian teaches an e-mail system for use by a passenger in a vehicle, said passenger having access to a terminal, (page 14, lines 11-20), the e-mail system comprising:

a first server (20) located on said vehicle, wherein said first server is configured to transport e-mail between said first server and said terminal, (page 14, line 17-page 15, line 5);

a second server external to said vehicle, wherein said second server is configured to transport e-mail between said second server and a data network, (page 15, lines 6-22); and

a communications system (80; fig. 1) configured to wirelessly transfer e-mail between said first server and said second server, (fig. 1; page 15, lines 4-22).

**Regarding claims 2 and 7**, Bastian teaches said communications system is configured to deliver an e-mail offer to said terminal, (page 29, lines 6-10); and

said communications system is configured to selectively transfer e-mail messages to said first server based upon requests from said passenger in response to said e-mail offer, (page 29, lines 5-19).

***Regarding claims 3 and 54***, Bastian teaches wherein said e-mail offer comprises a subject header identifying an e-mail available for upload, an indication of who sent said e-mail, and a price for delivering said e-mail to said terminal, (page 29, lines 5-19).

***Regarding claims 4 and 60***, Bastian teaches said terminal is a laptop computer (page 18, lines 9-20) configured with information identifying a home e-mail server;

said communications system is further configured to route e-mail to and from said laptop computer through said first server regardless of said laptop computer configuration, (page 27, lines 17-21; page 20, lines 17-21); and

said first server emulates said home e-mail server, (page 26, lines 10-13).

***Regarding claim 5***, Bastian teaches said second server is configured to periodically poll said home e-mail server for inbox messages, (page 16, lines 11-18).

***Regarding claims 6 and 50***, Bastian teaches wherein said second server is configured to receive e-mail forwarded from said home e-mail server, (page 16, lines 13-16; page 29, line 20- page 30, line 10).

***Regarding claims 8 and 37***, Bastian teaches wherein said communications system comprises a first communication device for providing a first wireless communication mode between said first server and said second server, (fig. 1; page 24, lines 3-8).

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**Regarding claims 9 and 53**, Bastian teaches wherein said communications system comprises a second communication device for providing a second wireless communication mode between said first server and said second server.; fig. 5; page 31, line 17-page 32, line 3).

**Regarding claims 10, 36,38 and 39**, Bastian teaches said communications system further comprises a mode selector configured to select a wireless communication mode from said first and second wireless communication modes based on mode selection criteria, (page 7, lines 16-21); and

said communication system is further configured to initiate said selected wireless communication mode to transfer an e-mail message, (page 29, lines 11-19).

**Regarding claims 11 and 40**, Bastian teaches wherein said mode selection criteria comprises an increase data throughput, (page 28, line 12 - page 29, lines 11-19).

**Regarding claims 13 and 43**, Bastian teaches wherein said mode selection criteria comprises a transmission cost associated with said wireless communication mode, (page 29, lines 11-19).

**Regarding claims 14 and 44**, Bastian teaches wherein said mode selection criteria comprises an amount a user is willing to pay, (page 29, lines 11-19).

**Regarding claims 15 and 45**, Bastian teaches wherein said mode selection criteria comprises a time since a last transfer of data, (page 15, lines 15-22).

**Regarding claims 16,46 and 47**, Bastian teaches the e-mail system of claim 10 further configured to determine when to initiate said communication modes, and configured to place e-mail data in a queue to be sent and received in batches, (page 25, lines 7-13).

***Regarding claims 18 and 55***, Bastian teaches wherein said wireless communication mode is gatelink, (page 23, lines 6-15).

***Regarding claims 19 and 56***, Bastian teaches wherein said wireless communication mode is radio frequency based, (page 3, lines 11-18).

***Regarding claims 20 and 57***, Bastian teaches wherein said wireless communication mode is satellite based, (page 25, lines 1-6).

***Regarding claims 21 and 58***, Bastian teaches wherein said wireless communication mode transfers compressed data, (page 11, line 11).

***Regarding claims 22 and 59***, Bastian teaches wherein said wireless communication mode transfers encrypted data, (page 12, lines 5-20).

***Regarding claim 23***, Bastian teaches a vehicle data network configured to transport an e-mail message between said terminal and said first server, (fig 5; page 27, lines 17-21).

***Regarding claims 24 and 61***, Bastian teaches wherein said vehicle data network comprises a World Wide Web server, (page 11, lines 16-20).

***Regarding claims 25 and 62***, Bastian teaches wherein said vehicle data network comprises an email server emulating an e-mail server identified by said passenger, (page 15, lines 15-22).

***Regarding claim 26 and 63***, Bastian teaches wherein said terminal communicates with said first server via a modem interface unit, (page 2, lines 7-17; page 35, lines 6-15).

***Regarding claim 27***, Bastian teaches wherein said terminal communicates with said first server via an in-flight entertainment system, (page 31, lines 5-16).

***Regarding claim 29***, Bastian teaches wherein said terminal comprises a kiosk, (page 31, lines 5-16).

***Regarding claim 30***, Bastian teaches wherein said terminal comprises a laptop computer, (page 18, lines 19-20).

***Regarding claim 31***, Bastian teaches wherein said terminal comprises a keyboard, (\*page 18, lines 19-20).

***Regarding claim 32***, Bastian teaches wherein said terminal comprises a palm pilot, (page 18, lines 9-20).

***Regarding claim 33***, Bastian teaches wherein said second server is further configured to provide e-mail accounts for said users, (page 18, lines 9-20).

***Regarding claim 34***, Bastian teaches wherein said vehicle is an airplane, (page 16, lines 5-18).

***Regarding claim 35***, Bastian teaches a method of transporting e-mail messages between a data network and a terminal on a vehicle, (page 14, lines 11-20), the method comprising the steps of:

transporting a message between a terminal on said vehicle and a first server on said vehicle, (page 14, lines 17-page 15, line 5);

establishing a data connection between said first server and a second server, wherein said second server is located external to said vehicle, (page 15, lines 6-22);

transporting e-mail between said first server and said second server via a wireless connection, (fig. 1; page 15, lines 4-22);

transporting e-mail between said second server and a data network, (page 15, lines 4-22).

**Regarding claim 48**, Bastian teaches wherein said step transporting e-mail between said second server and a data network further comprise an e-mail retrieval step wherein an e-mail message is transmitted to said second server, (page 16, lines 11-18).

**Regarding claim 49**, Bastian teaches wherein said e-mail retrieval step further comprises the step of polling a home e-mail server by said second server and retrieving said e-mail message from said home e-mail service, (page 16, lines 11-18).

**Regarding claim 51**, Bastian teaches the step of establishing an e-mail account for said user, (page 18, line 9-page 19, line 7).

**Regarding claim 52**, Bastian teaches the step of receiving an e-mail message sent to said e-mail account, (page 29, lines 11-19).

**Regarding claims 64-66**, Bastian teaches a digital storage medium having computer-executable instructions stored thereon, wherein said computer-executable instructions are operable to execute the method of claims 39,53,60, (abstract).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.



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2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
6. Claims 12,17,28,41 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bastian in view of Wright et al. US Patent 6,173,159.

*Regarding claims 12,17,28,41 and 42*, while Bastian teaches of mode selection criteria Bastian does not specifically teach wherein the mode selection comprises an urgency of the message of the amount of data accumulated.

Wright teaches that it was well known in the art to have mode selection criteria which is based on the importance of a message and the amount of data, (col. 5, lines 59-65; col. 11, lines 26-38). Wright also wherein a terminal (PC's in cabin) communicates with a first server via a wireless interface unit, (col. 10, lines 6-19).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Bastian by having the mode selection being based on urgency and the amount of data in the queue as well as using a wireless interface unit as taught by Wright so that the terminal can communicate with the server at a higher bandwidth and so that important messages can be sent first. This will allow a user to send priority e-mail messages if they are determined to be urgent.

### *Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hasse et al. EP 1096699 A2 teaches of a method and system for connecting a first server in a vehicle to a second server and transmitting an e-mail message from the first server in the

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vehicle to a second server wireless and wherein the second server communicates with a data network

Hiatt GB 2347586 A teaches of a accessing remote data from an aircraft.

8. Any response to this action should be mailed to:

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

or faxed to:

(703) 872-9306, (for formal communications intended for entry)

Or:

(703) 872-9314, (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ovidio Escalante whose telephone number is (703) 308-6262. The examiner can normally be reached on Monday to Friday from 6:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang, can be reached on (703) 305-4895. The fax phone number for this Group is (703) 872-9306.

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Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [fan.tsang@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Ovidio Escalante  
Examiner  
Group 2645  
December 12, 2003

FAN TSANG  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

